

# **CONTRACT FOR CONSTRUCTION CONSULTANT SERVICES FOR CAPITAL IMPROVEMENT PETITION RENT INCREASE APPLICATIONS**

**THIS CONTRACT** is made by and between the City of Takoma Park, Maryland, a Maryland municipal corporation, 7500 Maple Avenue, Takoma Park, MD 20912, hereinafter referred to as the “City,” and K & S Construction Consultants, L.L.C., a Maryland limited liability company, 4970 Battery Lane, #105, Bethesda, MD 20814, hereinafter referred to as the “Consultant.”

**WHEREAS**, the City of Takoma Park’s rent stabilization law provides for rent increases in excess of the annual rent stabilization allowance when certain capital improvements have been made to a licensed rental residential property, and

**WHEREAS**, the City of Takoma Park has solicited proposals for the assistance of a construction management consultant to act as the City’s Field Representative to ensure that certain requirements of the City’s rent stabilization law have been satisfied.

**NOW, THEREFORE**, in consideration of the mutual promises herein stated, the parties agree as follows:

## **SECTION 1 - CONTRACT WORK**

This is a Contract for the performance of construction management consultant services as related to the capital improvement rent increase petitions permitted under Chapter 6, Housing, Article 5, Rent Stabilization of the *Takoma Park Code*. The Consultant agrees to perform and furnish all services, labor, supervision, materials, equipment, and supplies necessary to render in a professional and workmanlike manner the contract work set forth in the Scope of Services attached hereto as Exhibit “A”.

## **SECTION 2 - ADDITIONAL SERVICES**

If authorized in writing by the City in the form of a change order or amendment to this Contract signed by both parties, the Consultant shall furnish additional or changed services not set forth in the original Scope of Services of the contract work. Additional services performed by the Consultant shall be compensated pursuant to the hourly rates set forth in Section 4.

## **SECTION 3 - CONTRACT DOCUMENTS**

The Contract Documents shall include this Contract and Exhibit “A”, Scope of Services. In the event of a conflict between any term in the Consultant’s proposal and this Contract, then the terms of this Contract shall prevail.

## **SECTION 4 - CONTRACT PRICE**

- A. The Contract Price is for a maximum amount not to exceed Five Thousand Dollars (\$5,000.00) for performance of all services under this Contract. The Contract Price includes the costs of direct expenses (*i.e.*, transportation, long distance phone, overnight mail, courier, etc.). The hourly rate for Consultant’s services is \$75.00 per hour.
- B. Consultant shall submit invoices to the City on a monthly basis. Invoices shall be based on time and direct expenses expended in furtherance of the Scope of Services. Invoice shall include the

address of rental property inspected, the dates of completed field inspections, and time expended to complete individual assignments.

- C. Payment shall be made after Consultant submits an invoice in a form acceptable to the City, within fifteen (15) working days after receipt of the invoice, via fax or hand delivery (3 days will be added for invoices sent by regular mail) provided that the services represented by the invoice have been satisfactorily performed as determined by the City in its sole discretion.

## **SECTION 5 - CONTRACT TERM AND TIME SCHEDULE FOR PERFORMANCE**

- A. The term of this Contract shall be for a period of twelve (12) months, beginning with the latest date this Contract is signed by both the City and the Consultant (see signature page). By agreement of the parties, this Contract may be extended for up to twelve (12) additional months following the expiration of the initial contract term.
- B. The City shall issue written requests to Consultant for the review of specific capital improvement rent increase petitions and services to be performed under this Contract. Consultant shall complete the work within fourteen (14) calendar days of receipt of the request or within the time(s) designated by the City for completion of the review, whichever is earlier. Any extension of time beyond these deadlines must be requested in writing from the City by the Consultant within five (5) calendar days of the receipt of the request or as soon as the necessity for an extension of time arises. The request should contain the actual additional time needed and a justification of the need for a time extension.

## **SECTION 6 - CITY RESPONSIBILITIES**

The City shall do the following in timely manner so as not to delay the Consultant's work:

- A. Provide full information as to the City's requirements for each task, including objectives and constraints, performance requirements, and any budgetary limitations; and furnish copies of the relevant capital improvement petition rent increase application and any relevant supporting documentation.
- B. Assist Consultant by placing at Consultant's disposal all available information pertinent to the review and field inspection of the work represented by the capital improvement petition.
- C. Give notice to Consultant whenever City observes or otherwise becomes aware of any development that affect the scope or timing of Consultant's services or any defect or non-conformance in Consultant's work.

## SECTION 7 - INSURANCE

Consultant shall maintain throughout the duration of this contract General Liability Insurance with a general aggregate of \$1,000,000.00 and Automobile Liability with a combined single limit of \$1,000,000.00 and will name the City as an Additional Insured thereunder. CCC shall deliver a Certificate of Insurance, showing such insurance to be in force, to the City prior to the performance of any services under this Contract.

## SECTION 8 - INDEMNIFICATION

Consultant is responsible for any loss, personal injury, death, and any other damage (including incidental and consequential) that may be done or suffered by reason of Consultant's negligence or failure to perform any contractual obligations. Consultant shall indemnify and save harmless the City of Takoma Park, its employees, officials, and agents, from and against all losses, liabilities, claims demands, damages, costs and expenses of any kind, including attorney's fees and litigation expenses, suffered or incurred due to Consultant's negligence, tortious act or omission, or failure to perform any of its contractual obligations.

## SECTION 9 - AUTHORIZED REPRESENTATIVES

- A. For the Consultant: Burton J. Slatnick is the Consultant's Authorized Representative for this Contract. The Consultant's Authorized Representative shall act on behalf of the Consultant on all matters pertaining to this Contract. All matters and correspondence to the Consultant pertaining to this Contract shall be directed to the attention of the Consultant's Authorized Representative. Consultant's Authorized Representative shall not be changed without written notice to and the agreement of the City.
- B. For the City: Sara Anne Daines, Director, Economic and Community Development, is the City Manager's designee for purposes of this contract and shall act as the City Representative in connection with this Contract. The City Representative shall have authority to transmit instructions, receive information, interpret and define the City's policies, and make decisions with respect to Consultant's performance under this Contract. The City Manager's designee under this Contract may be changed at any time or from time to time by written notice from the City to the Consultant.

## SECTION 10 - NOTICES

Any required notices or other communications under this Contract shall be in writing and personally delivered or sent by facsimile and mailed as follows:

If to Consultant: K & S Construction Consultants, L.L.C.  
Attn: Burton J. Slatnick  
4970 Battery Lane, # 105  
Bethesda, MD 20814  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

If to the City: City of Takoma Park  
Attn: Sara Anne Daines, ECD Director  
Department of Housing & Community Development  
7500 Maple Avenue  
Takoma Park, MD 20912  
Telephone: (301) 891-7224  
Fax: (301) 270-8794  
E-Mail: [SaraD@takomagov.org](mailto:SaraD@takomagov.org)

or to such other person or address as either party shall have designated by a notice in writing to the other. Any such notice shall be deemed given when personally delivered or one day after the notice is sent by facsimile and e-mail or three days after the notice is deposited, properly addressed and postage prepaid, in the United States mail.

## **SECTION 11 - TERMINATION FOR CAUSE**

- A. In the event of any of the circumstances set forth below (hereinafter referred to as “default”), the City may immediately terminate this Contract, in whole or in part, and from time to time. Notice of termination must be in writing, state the reason or reasons for the termination, and specify the effective date of the termination.
1. Dishonesty on a material matter relating to the performance of services under this Contract.
  2. Failure to satisfactorily perform the contract services or to comply with any provision of this Contract, as determined by the City Representative in his or her sole discretion.
  3. Being criminally charged with an offense involving fraud, dishonesty or moral turpitude.
  4. Failure to adhere to the terms of applicable City, County, State or Federal laws, regulations, or stated public policy.
- B. In the event of a default by Consultant, the City may elect to terminate this Contract, in whole or in part, and from time to time, or it may (but shall not be required to) grant Consultant an opportunity to cure the default without termination of this Contract and upon such terms and conditions as the City in its sole discretion may deem advisable. Should the City at any time terminate this Contract for any default when a task of the contract services is in progress or has not been completed then, in addition to any other remedies it may have, the City reserves the right to hire another Consultant to perform or complete all or any part of the uncompleted services required and to apply any money that may be due to Consultant to any additional or incurred expenses to the City resulting from Consultant’s default.
- C. Any termination of this Contract for cause that is later deemed to be unjustified shall be deemed a termination for convenience under Section 12.

## **SECTION 12 - TERMINATION FOR CONVENIENCE**

For convenience of City, the performance of services under this Contract may be terminated, in whole or in part, upon written notice to Consultant, when the City determines that termination of this Contract is in the best interests of City. The termination shall be effective on the date stated in the notice or, if the notice does not specify an effective date, five (5) days after notice of termination is given by the City to Consultant. In such as event, City shall be liable only for payment for services satisfactorily performed or expenses incurred prior to the effective date of the termination.

## **SECTION 13 - DISPUTES**

- A. Any dispute arising under this contract which is not resolved by an agreement between the parties shall be decided by the City Manager or his or her designee, after reasonable opportunity is provided for all parties to provide written documentation supporting their position. Pending final resolution of a dispute, except for a termination of this contract, Consultant must proceed diligently with the contract services. Consultant waives any dispute or claim not made in writing and received by the City Manager or his or her designee within one month of the occurrence giving rise to the dispute or claim. A claim must be in writing, for a sum certain if the claim is for money, and any money requested must be fully supported by all cost and pricing information.
- B. Both parties hereby waive trial by jury in any action on all matters arising out of this Contract.
- C. A decision by the City Manager or his or her designee under the procedure set forth in paragraph A. above shall be a condition precedent to suit being filed by any party. For purposes of any litigation involving this Contract, exclusive venue and jurisdiction shall be in the Circuit Court for Montgomery County, Maryland, or in the District Court of Maryland for Montgomery County.

## **SECTION 14 - WARRANTIES AND REPRESENTATIONS**

Consultant warrants and represents that it is the sole entity, directly or indirectly, interested in compensation for the delivery of the services bid upon, awarded, and to be performed under this Contract; that any proposal upon which this contract was based was made without any connection or common interest in the profits with any undisclosed persons or entity making any quotation or proposal for the said work; that the Contract is, in all respects, fair and made without collusion or fraud; that no employee or official of the City is directly or indirectly interested therein; that Consultant, in the performance of this Contract, will not violate any laws applicable in the State of Maryland; that Consultant will in no way engage in or participate in any form of illegal discrimination; and that Consultant is not now, and will not so long as this Contract remains in effect, engage in the development, research, testing, evaluation, production, maintenance, storage, transportation, and/or disposal of nuclear weapons or their components, or the sale of merchandise produced by companies so involved.

## **SECTION 15 - MISCELLANEOUS**

This Contract contains the entire agreement between the parties. All oral or written negotiations and prior dealings are merged into this Contract. Consultant may not assign, transfer or subcontract this Contract or any interest herein or any claim hereunder, without the express written consent of the City,

and any attempted assignment, transfer, or subcontracting without such prior written consent shall be void. This Contract shall be binding upon the parties, their heirs, successors, administrators, and assigns. Any amendment or modifications to this Contract must be in writing signed by both parties hereto. The failure of the City to enforce any of the terms, conditions or covenants of this Contract shall not be deemed a waiver of a subsequent breach or default of the terms of this Contract. This Contract shall be governed by and interpreted in accordance with the law of the State of Maryland.

**IN WITNESS WHEREOF**, the Consultant and the City have signed this Contract, under seal, effective on last date this Contract is signed by all parties, as indicated by the dates set forth under the signatures below.

**K & S CONSTRUCTION CONSULTANTS, L.L.C.**

Attest:

\_\_\_\_\_

By: \_\_\_\_\_/s/\_\_\_\_\_ (SEAL)

Burton J. Slatnick

Title: \_\_\_\_\_

Date signed: \_\_\_\_\_

**CITY OF TAKOMA PARK, MARYLAND**

Attest:

\_\_\_\_\_

By: \_\_\_\_\_/s/\_\_\_\_\_ (SEAL)

Richard M. Finn, City Manager

Date signed: \_\_\_\_\_

Approved for legal form and sufficiency:

\_\_\_\_\_/s/\_\_\_\_\_

Linda S. Perlman, Asst. City Attorney  
City of Takoma Park, Maryland

Date Signed: \_\_\_\_\_

**EXHIBIT “A”**

**SCOPE OF SERVICES**

The Consultant shall provide the following services to the City:

1. Consultant shall establish procedures for coordination of its work with the City, landlord/property owner, and any subcontractors, and perform its services in accordance with such procedures
2. Consultant shall review capital improvement rent increase petition application files furnished by the City to ascertain the scope of the capital improvement work claimed by the property owner.
3. Consultant shall make all necessary appointments to conduct required field inspections of the claimed capital improvement work.
4. Consultant shall conduct field inspections of the rental property to determine the status of the claimed improvement work and to verify that said improvements comply with the requirements of the City of Takoma Park’s Property Maintenance Code and all applicable building codes and requirements. Consultant also shall inspect the work for quality of workmanship and shall verify that all necessary permits are in force as applicable.
5. Consultant shall ensure that all requirements for permits and inspections of the capital improvement work by local authorities (including, but not limited to Montgomery County, M-NCPPC, State of Maryland, etc.) have been met.
6. Consultant shall provide a brief written report to the City on the status of the capital improvements claimed in the capital improvement rent increase petition in a form to be developed in partnership with the City.
7. Consultant shall obtain and maintain all licenses and permits, if any, required to perform the Contract services.
8. Consultant shall meet or communicate with City staff as needed and shall report once a month or as needed to the City Representative regarding Consultant’s activities, progress, issues or problems under this Contract.
9. Consultant shall testify, as needed, at City Commission on Landlord Tenant Affairs hearings and proceedings.